

4-30-1. Definitions.

For the purpose of this chapter:

(1) "Consignor" or "shipper" means any person who consigns, ships, or delivers livestock to a livestock market for storage, handling, or sale.

(2) (a) "Livestock market" means a public market place consisting of pens or other enclosures where all classes of livestock or poultry are received on consignment and kept for subsequent sale, either through public auction or private sale.

(b) "Livestock market" does not include:

(i) a place used solely for liquidation of livestock by a farmer, dairyman, livestock breeder, or feeder who is going out of such business; or

(ii) a place where an association of livestock breeders or an individual livestock breeder offers registered livestock or breeding sires for sale and assumes all responsibility for the sale, guarantees title to the livestock or sires sold, and arranges with the department for brand inspection of all animals sold.

(3) "Person" means an individual, partnership, corporation, or association.

Amended by Chapter 298, 1999 General Session

4-30-2. Livestock Market Committee created -- Composition -- Terms -- Removal -- Compensation -- Duties.

(1) There is created a Livestock Market Committee which consists of the following seven members appointed to a four-year term of office by the commissioner:

(a) one member recommended by the livestock market operators in the state;

(b) one member recommended by the Utah Cattlemen's Association;

(c) one member recommended by the Utah Dairywomen's Association;

(d) one member recommended by the Utah Woolgrowers' Association;

(e) one member recommended by the horse industry;

(f) one member recommended by the Utah Farm Bureau Federation; and

(g) one member recommended by the Utah Farmers Union.

(2) Notwithstanding the requirements of Subsection (1), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(3) No more than four members shall be members of the same political party.

(4) (a) The commissioner may remove a member of the committee at the request of the association or group which recommended the member's appointment.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) The Livestock Market Committee shall elect a chair from its membership, who shall serve for a term of office of two years, but may be reelected for subsequent terms.

(6) (a) The chair is responsible for the call and conduct of meetings.

(b) Four members constitute a quorum for the transaction of official business.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and
(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) The Livestock Market Committee acts as advisor to the department with respect to the administration and enforcement of this chapter and makes recommendations necessary to carry out the intent of this chapter to the commissioner.

Amended by Chapter 286, 2010 General Session

4-30-3. Department authorized to make and enforce rules.

The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to make and enforce such rules as in its judgment are necessary to administer and enforce this chapter.

Amended by Chapter 382, 2008 General Session

4-30-4. License required -- Application -- Fee -- Expiration -- Renewal.

(1) (a) No person may operate a livestock market in this state without a license issued by the department.

(b) Application for a license shall be made to the department upon forms prescribed and furnished by it. The application shall specify:

(i) if the applicant is an individual, the name, address, and date of birth of the applicant; or

(ii) if the applicant is a partnership, corporation, or association, the name, address, and date of birth of each person who has a financial interest in the applicant and the amount of each person's interest;

(iii) a certified statement of the financial assets and liabilities of the applicant detailing:

(A) current assets;

(B) current liabilities;

(C) long-term assets; and

(D) long-term liabilities;

(iv) a legal description of the property where the market is proposed to be located, its street address, and a description of the facilities proposed to be used in connection with it;

(v) a schedule of the charges or fees the applicant proposes to charge for each service rendered; and

(vi) a detailed statement of the trade area proposed to be served by the applicant, the potential benefits which will be derived by the livestock industry, and the specific services the applicant intends to render at the livestock market.

(2) (a) Upon receipt of a proper application, payment of a license fee in an amount determined by the department pursuant to Subsection 4-2-2(2), and a favorable recommendation by the Livestock Market Committee, the commissioner, if satisfied that the convenience and necessity of the industry and the public will be served, shall issue a license allowing the applicant to operate the livestock market proposed in the application valid through December 31 of the year in which the license is issued,

subject to suspension or revocation for cause.

(b) A livestock market license is annually renewable on or before December 31 of each year upon the payment of an annual license renewal fee in an amount determined by the department pursuant to Subsection 4-2-2(2).

(3) No livestock market original or renewal license may be issued until the applicant has provided the department with a certified copy of a surety bond filed with the United States Department of Agriculture as required by the Packers and Stockyards Act, 1921, 7 U.S.C. Section 181 et seq.

Amended by Chapter 298, 1999 General Session

4-30-5. Hearing on license application -- Notice of hearing.

(1) Upon the filing of an application, the chairman of the Livestock Market Committee shall set a time for hearing on the application in the city or town nearest the proposed site of the livestock market and cause notice of the time and place of the hearing together with a copy of the application to be forwarded by mail, not less than 15 days before the hearing date, to the following:

(a) each licensed livestock market operator within the state; and
(b) each livestock or other interested association or group of persons in the state that has filed written notice with the committee requesting receipt of notice of such hearings.

(2) Notice of the hearing shall be published 14 days before the scheduled hearing date:

(a) in a daily or weekly newspaper of general circulation within the city or town where the hearing is scheduled; and
(b) on the Utah Public Notice Website created in Section 63F-1-701.

Amended by Chapter 90, 2010 General Session

4-30-6. Livestock Market Committee -- Guidelines delineated for decision on application.

(1) The Livestock Market Committee in determining whether to recommend approval or denial of the application shall consider:

(a) the applicant's proven or potential ability to comply with the Packers and Stockyards Act, 7 U.S.C. Sec. 221 through 229b;

(b) the financial stability, business integrity, and fiduciary responsibility of the applicant;

(c) the livestock marketing benefits which potentially will be derived from the establishment and operation of the public livestock market proposed;

(d) the need for livestock market services in the trade area proposed;

(e) the adequacy of the livestock market location and facilities proposed in the application, including facilities for health inspection and testing;

(f) whether the operation of the proposed livestock market is likely to be permanent; and

(g) the economic feasibility of the proposed livestock market based on competent evidence.

(2) Any interested person may appear at the hearing on the application and give an opinion or present evidence either for or against granting the application.

Amended by Chapter 179, 2007 General Session

4-30-7. Transfer of livestock market license permitted -- Conditions.

(1) No livestock market license is transferable to another person without the prior approval of the commissioner.

(2) A change in the membership of a partnership or association, or the sale or transfer of a 25% or greater interest in the stock ownership of a corporate livestock market shall be considered a transfer of the livestock market license and is subject to the requirements of this section.

(3) Application to allow transfer of a livestock market license shall be made to the department on a form prescribed and furnished by it.

(4) The commissioner may grant a transfer of the license:

(a) if the proposed transferee meets all the requirements specified for an original license in Section 4-30-4; and

(b) based on the criteria specified in Section 4-30-6.

Amended by Chapter 298, 1999 General Session

4-30-7.5. Financial responsibility.

Each livestock market shall maintain a financial condition of total assets in excess of total liabilities, including total current assets in excess of total current liabilities.

Enacted by Chapter 298, 1999 General Session

4-30-7.6. Custodial accounts for trust funds.

(1) (a) Each payment that a livestock buyer makes to a livestock market selling on commission is a trust fund.

(b) Funds deposited in custodial accounts are trust funds.

(2) Each livestock market engaged in selling livestock on a commission or agency basis shall establish and maintain a separate bank account designated as "custodial account for shippers' proceeds" or some similar identifying designation, to disclose that the depositor is acting as a fiduciary and that the funds in the account are trust funds.

(3) (a) The livestock market shall deposit in its custodial account before the close of the next business day after the livestock is sold:

(i) the proceeds from the sale of the livestock that have been collected; and

(ii) an amount equal to the proceeds receivable from the sale of livestock that are due from:

(A) the livestock market;

(B) any owner, officer, or employee of the livestock market; and

(C) any buyer to whom the livestock market has extended credit.

(b) The livestock market shall thereafter deposit in the custodial account all

proceeds collected until the account has been reimbursed in full, and shall, before the close of the seventh day following the sale of livestock, deposit an amount equal to all the remaining proceeds receivable whether or not the proceeds have been collected by the livestock market.

(4) The custodial account shall be drawn on only for payment of:

(a) the net proceeds to the consignor or shipper, or to any person that the livestock market knows is entitled to payment;

(b) to pay lawful charges against the consignment of livestock which the market agency shall, in its capacity as agent, be required to pay; and

(c) to obtain any sums due the livestock market as compensation for its services.

(5) (a) Each livestock market shall keep accounts and records that will disclose at all times the handling of funds in the custodial account.

(b) Accounts and records shall at all times disclose the name of the consignors and the amount due and payable to each from funds in the custodial account.

(6) The custodial account shall be established and maintained in a bank whose deposits are insured by the Federal Deposit Insurance Corporation.

Amended by Chapter 378, 2010 General Session

4-30-8. Weighman license required -- Application -- Fee -- Bond -- Expiration -- Renewal.

(1) No person may act as a weighman at a livestock market without a license from the department. Application for a weighman's license shall be made to the department upon forms prescribed and furnished by it. Upon receipt of a proper application, payment of a license fee in an amount determined by the department pursuant to Subsection 4-2-2(2), and deposit of either a corporate surety bond or trust fund agreement with the department in the principal amount of \$1,000, the commissioner shall issue a license allowing the applicant to act as a weighman through December 31 of the year in which the license is issued, subject to suspension or revocation for cause. A weighman's license is annually renewable on or before December 31 of each year upon the payment of an annual license renewal fee in an amount determined by the department pursuant to Subsection 4-2-2(2).

(2) Each weighman's surety bond shall be written by a surety licensed under the laws of Utah and name the state, as obligee, for the use and benefit of persons who consign livestock to a livestock market. The bond shall further be conditioned for the faithful and accurate weighing of livestock consigned to a livestock market, and for the payment of court costs and a reasonable attorney's fee to the prevailing party incident to any suit brought upon the bond.

Amended by Chapter 130, 1985 General Session

4-30-9. Suspension or revocation of license -- Grounds.

The department is authorized to suspend or revoke the license of any livestock market or livestock market weighman who:

(1) violates any provision of this chapter or any rule promulgated under this

chapter; or

(2) engages in any fraudulent or deceitful activity.

Amended by Chapter 298, 1999 General Session